

Fraud and Corruption Investigation

Case Exercise

All major events in this Case Exercise are drawn from actual cases.

PROLOGUE

According to the UN and other official sources, since 2013 members of a ragtag group of mostly teenage “rebels,” known as “The Brigade,” have crossed the border from Southern Nuria to attack the isolated towns and villages of Northern Bukara. Armed primarily with Russian and Serbian made weapons, the rebels stated objective is to overthrow the elected government and make the Ten Commandments the law of the land. To accomplish this noble objective the rebels kill the men, abduct the women and kidnap the children for use as child soldiers. As a result, thousands of villagers have been forced to flee to squalid,



Northern Bukara Refugee Camp

overcrowded UN refugee camps where they remain vulnerable to further attacks and outbreaks of disease.

Since 2015, the Government of Bukara has attempted to pacify and rebuild the region with the help of more than one-half billion dollars in aid from a number of international donors. One of the bigger projects is the Bukara

Reconstruction Project, known as “BURP,” financed primarily by the International Development Group (IDG).

According to widespread reports from the local media, NGO’s and clergy groups the BURP Project has been plagued by delays and setbacks because of pervasive corruption in the army and the donor-funded Projects.

Sara Imaji of Refugees International (RI), a Geneva-based NGO, recently contacted you to report on her just completed tour of Northern Bukara to assess the effectiveness of the Project. She tells you that:

...she saw virtually no sign of any reconstruction work; bit did see miles of untended, washed out roads, unfinished schools and clinics, abandoned towns and burned out villages.

Ms. Imaji said she reported her findings to Bruno Elisay, the senior Bukaran government official in charge of the BURP Project. Mr. Elisay insisted that the Project was proceeding quite nicely. When she disagreed, and told him he

intended to publish her findings, he became quite angry and told her “the butterfly should not attack the crocodile” and that she “should be careful because Bukara can be quite dangerous at night.” She was frightened and left the country that evening.

She offers to introduce you to a former senior BURP Project official who “knows the whole story and may be willing to talk.”

Based on the above, you receive authorization to open an investigation of possible fraud and corruption in the BURP Project.

STEP ONE

You begin the investigation by interviewing the former BURP official referred to you by Ms. Imaji. He is concerned for his safety and insists on complete anonymity. You agree. He comes to the IDG office and provides the following information:

He was an Assistant Director of the BURP Project from its inception in February 2015 until he quit in July 2018. He worked primarily on contract and procurement issues and sat on several Bid Evaluation Committees.

The BURP Project “was rotten from the beginning to the end, top to bottom.” Senior government and Project officials secretly negotiate the award of major construction contracts to unqualified companies in exchange for kickbacks of 10% to 20%, often before the Request for Bids is even published. Project officials set up shell companies to supply the project at high prices, such as leasing construction equipment or providing supposed consulting services. Many of the latter services are never performed.

The quality of works is universally poor: contractors routinely pay the inspectors petty sums to approve substandard or non-existent works. This is done with the knowledge and acquiescence of the BURP Project officials, who want to make it easy for the contractors to make the agreed kickback payments. Any honest supervisor who manages to slip in is quickly removed by Project officials.

Johan Kurtz is the IDG Task Team Leader for the BURP Project. He is a controversial figure in the development community, considered to be extremely intelligent but widely disliked by his colleagues and the locals because of his arrogant and condescending attitude.

Kurtz pushes especially hard for contracts to FELIX CONSULTANTS, a small, previously unknown Swiss civil engineering company. He also favors a major international contractor, EAST WEST OVERSEAS CONSTRUCTION COMPANY (EAST WEST), where Madam Li was the local manager. At least he did so until Ms. Li was transferred back to EW’S headquarters, after which he seemed to lose interest in the company.

On one occasion, sometime before Ms. Li left, the Source recalled, Kurtz came to his office late in the day after the other staff had left. Kurtz threatened to have his “head on a stake” unless he dropped his opposition to a \$175 million contract award to EAST WEST on the major BURP road project. The Source favored another, more qualified company that offered a much better price and refused to change his position. Kurtz went over his head, ordered that the other bidder be

disqualified and the contract awarded to EAST WEST. Thereafter Kurtz excluded the Source from all future Bid Evaluation Committees.

* * *

The next day you meet with Howard Anderson, the IDG Country Director. He is curious about the progress of your case and offers to help in any way he can. You tell him about your interview with the Confidential Source, without the details. You ask him if he is aware of any wrongdoing in BURP:

Anderson says he has heard rumors of corruption in BURP – there are rumors everywhere, he says – but he has no proof. He says Kurtz “lacks people skills” but is “tough but honest” on the contractors. “It’s not easy working in Bukara,” he adds.

As you get up to leave, Anderson comments that Kurtz lives in a “mansion” outside the capital. “It’s the nicest house in the country,” Anderson says, “None of the locals could afford it.”

“Kurtz liked to host lavish parties there for Ms. Li and other big shots,” Anderson says, and adds that it is rumored that EAST WEST helped Kurtz build the house. “You should go see it,” Anderson says, “It’s really something.”

* * *

A few days later Ms. Imaji re-contacts you and reports that, tragically, the Confidential Source was killed the night before while crossing the town square in front of the Central Train Station. She said he was hit by a truck and died instantly. She heard that the truck was transporting arms to southern Nuria. She begs you to keep her cooperation confidential.

Questions

1. How would you evaluate the adequacy of the interview of the Source?
2. What other information would you have attempted to get from the Source?
3. How would you respond to Anderson’s questions about your investigation?
4. What would be your next step?

STEP TWO

You begin the tedious but important process of collecting and reviewing the relevant Project documents based on the information received from Ms. Imaji and the Confidential Source.

You are looking for confirmation of the Source's claims and other red flags of misconduct. The records fill two large file cabinets and spill over on to the floor your workplace.

You learn the following from your review of the documents:



"Satisfactorily" rebuilt village clinic in BURP Project
(Photo from Sara Imaji)

IDG's BURP *Project Evaluation Reports* (prepared by Kurtz) indicate that the Project was progressing "satisfactorily." The draft *Interim Assessment Report* (also prepared by Kurtz) states that the Project is "Moderately Successful" and has "largely achieved its objectives" to pacify and rebuild the region and resettle the refugees. You note that Anderson writes in the margin of one of Kurtz's reports that

"your descriptions of the accomplishments of the BURP Project seem just a wee-bit optimistic."

Regarding the award of contracts, the procurement files reveal:

FELIX CONSULTANTS won 9 of the 10 consulting contracts for project design and supervision - the only proposal it lost was on a project component on which Kurtz was not involved. It supervised all of the large road and construction contracts and routinely approved their requests for payments and change order requests. FELIX also benefited from substantial contract amendments, approved by Kurtz, which on several occasions almost doubled its original contract price. These were justified by the difficulty of working in Bukara and the many unexpected obstacles encountered.

You see that the local construction company STERLING LTD won two road repair contracts in early 2016, with a total value of \$33 million. The files reflected that the company experienced substantial delays from the beginning of its contracts. STERLING complained in writing that the contract specifications prepared by FELIX were inadequate. For example, the specs for the 110 kilometer Northport to Silver Valley road segment failed to disclose that the soil conditions consisted largely of subsurface rock, rather than the soft soil reported in the engineering and bidding documents. STERLING requested additional funds to blast the rocks, which Kurtz denied, citing the lack of technical support for STERLING's claims, causing more delays and expense.

Again, according to the files, Kurtz began to withhold STERLING's contract payments in late November 2016. After that he argued that its contracts should be canceled and moved to EAST WEST.

You obtain Kurtz's IDG emails and see there a message from Mark Jacobs, an independent construction supervisor assigned to an EAST WEST road construction project. The email forwards his resignation after "a year of frustration" trying to ensure that EAST WEST adheres to its contractual requirements.

Questions:

1. What other documents would you ask for?
2. What "red flags" if any did you see?
3. Can some of the "red flags" have legitimate explanations?
4. Does the information support the claims of the Confidential Source?
5. Who else might you want to interview at this stage?
6. What steps would you take next?

STEP THREE

You interview Mark Jacobs, the independent construction supervisor who emailed you. He tells you the following:

EAST WEST delayed its start for 6 months on the Reconstruction contract because it was overloaded with work elsewhere in North Bukara. Normally this would subject the company to significant delay penalties, but he saw the EAST WEST site manager give envelopes of cash to the local BURP officials every two or three weeks. He assumed the envelopes were to induce the officials to excuse the delays.

Jacobs added that the construction materials and equipment stored at the site do not meet contract requirements.

Jacobs says he discussed the delays with the local FELIX rep, who had overall supervision responsibilities on the Project, but he seemed unconcerned. Kurtz ignored Jacob's many emails on the topic.

Questions

1. What other information would you have sought from Jacobs?
2. What follow up questions might you have asked about the envelopes given to the Project officials?
3. What documents might you have requested?
4. What is your next step?

STEP FOUR



FELIX "HQ" in Zug, Switzerland (pink building)

You next conduct standard background checks on the major players in the case, including FELIX CONSULTANTS, EAST WEST, STERLING and Kurtz.

You learn that FELIX is incorporated in the British Virgin Islands and has only one listed employee who is employed

full-time elsewhere. Its address comes back to a fiduciary company in Zug (above) that provides administrative services for it and scores of other small companies. FELIX does not have a Website and is not listed in Dun and Bradstreet or other business directories.

There is little relevant information available on EAST WEST, other than the standard complaints in the Bukaran media about alleged substandard work, common to all contractors. EAST WEST was temporarily suspended by the World Bank Group in Cambodia for unspecified "fraudulent practices" in 2011 but was re-instated six months later.

The background check on STERLING reveals that the company was incorporated in 2003 in the UK and had won a large number of prior construction contracts in the region, mostly in the road sector. You found a few local press articles and on-line media reports complaining about the company's slow performance on road projects in Kenya in 2014.

There are no references to Kurtz on-line, in social media or elsewhere, other than a few references to his employment at IDG. His HR file reflects that he is a civil engineer and has been employed as a Senior Transport Specialist for more than ten years. His current salary is the equivalent of US \$160,000 annually, which has increased incrementally from \$115,000 since he joined the IDG in 2007. Information in his HR file reveals that he is divorced and has one son studying at the London School of Economics.

His HR file contains a number of written complaints from local Government and BURP Project officials for alleged abusive behavior to local staff and favoritism to certain companies, primarily FELIX. One of the officials complained that he observed Kurtz change the evaluation scores in a tender to allow FELIX to win a contract for which it was not the most qualified.

Howard Anderson, the IDG Country Director, did not act on any of the complaints. He noted in the Project file that he spoke to Kurtz who denied the allegations, and that he had full confidence in Kurtz.

Kurtz's business telephone records include a number of calls to and from the CEO of FELIX, some of which occurred during the time that FELIX was involved in the proposal evaluation process.



Kurtz's mansion

You take a day off and travel to the outskirts of the capital to see Kurtz's home. It is indeed a "mansion," beautifully constructed and landscaped. Two large guest houses flank the main building. Smartly uniformed guards protect the premises.

Kurtz's IDG travel records show frequent personal trips to the UK, his permanent place of residence, with stops in Zurich, followed by one to two-day layovers.

Questions:

1. What other background checks could you have conducted?
2. Would you pursue an investigation of Kurtz's house at this stage? If so, how would you organize it?
3. What other steps would you take at this point?

STEP FIVE

You meet with Thomas Green, the Regional Team Leader for IDG's Investigations Unit, to assess the evidence collected thus far and to determine how, or whether, to proceed with the investigation.

Green does not dispute the potential significance of the case, but questions whether you have collected enough evidence to justify the time and expense that would be required to conduct a full investigation. He admits there is lots of smoke, but wonders if you can find the fire, if it exists, within a reasonable time and budget. There are, unfortunately, he says, a lot of other cases that need to be investigated.

Questions:

1. Do you believe there is adequate predication to continue the investigation?
Why or why not?
2. What potential offenses do you think you have identified to date?
3. If you decide to proceed, what would be your next steps?

STEP SIX

You get permission to proceed with the investigation.

You draft an investigation plan that includes interviews of losing bidders and exercising contract audit rights on FELIX and EAST WEST. You also start to plan a personal financial investigation of Kurtz, beginning with obtaining information on his assets and liabilities, his income and expenses.

Interviews of other losing bidders produce little hard evidence. More than one says “everybody in the industry knows that Kurtz owns FELIX,” but none can provide actual evidence or useful leads. One losing bidder says he had heard a former STERLING manager say the company had “learned how to handle Kurtz.”

You exercise IDG’s contract audit rights on FELIX at its Swiss “headquarters” and find few records and no evidence of Kurtz’s ownership. You note, however, that FELIX is paying what seem to be very high rental fees for its temporary Bukaran local office. You also note monthly payments of several thousand US dollars to an account in the UK.

You notify EAST WEST of your intent to exercise audit rights on its contract. The company replies that all of the requested records were destroyed in a fire as the result of an earthquake the previous month. Green nixes the audit.

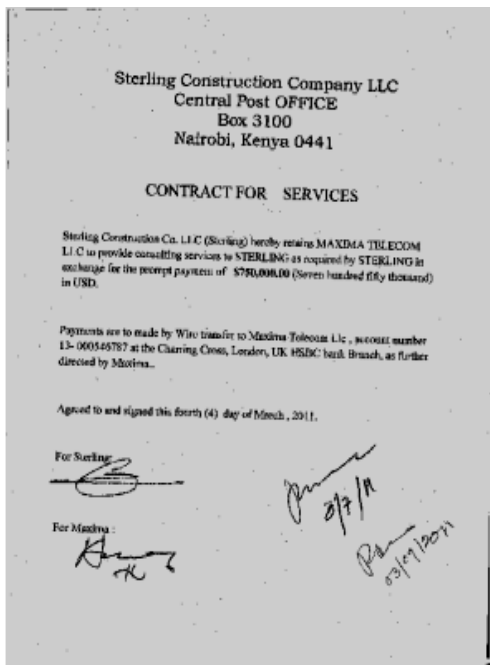
* * *

Intrigued by the losing bidder’s comment about STERLING knowing “how to handle Kurtz,” you approach the former STERLING manager and ask for a meeting. The former manager at first declines to meet, but after considerable persuasion and assurances, he agrees to meet at an isolated location and speak off the record.

He tells the following story:

In February 2017, about a year into its BURP contracts, STERLING ran into severe financial problems because of problems Kurtz created, putting the company near bankruptcy and costing the witness his job.

At that time two men approached the company – one a wealthy Middle Eastern businessman with substantial business interests in Bukara, the other the head of the Bukaran armed forces and the brother of the President.



The two men said they could help the company solve its problem with Kurtz in exchange for the payment of \$750,000. After some initial hesitancy, the company decided it had no choice but to pay and signed a phony consulting contract (left) with a shell company owned by the Middle Eastern businessman - Maxima Telecom LLC - for the amount of the payment to disguise its purpose.

STERLING paid the bribe money - which the former manager characterized as "an extortion" - over the next several months in four increments. The payments

were wired to an account at a Global Bank branch in London in the name of Trade Winds Ltd. (not Maxima Telecom). Trade Winds appeared to be another shell company owned by the businessman. STERLING made the final payment in December, 2017.

One week later, IDG approved the extension of STERLING's contract and the company was reimbursed the full amount of the contract payments that had been withheld.

The witness agrees to provide you with copies of the payment documents and bogus consulting contract the next day.

Early the next morning you find the promised documents in a blank envelope on a chair in your office. They include copies of wire transfer receipts for the four payments by STERLING in the amounts of USD \$200,000, \$250,000, \$150,000 and \$150,000, spaced over several months, to an account in the name of Trade Winds LLC, Ltd. at a Global Bank branch in London, just as the former STERLING manager had reported. The last payment was made December 18, 2017.

You conduct background checks on Trade Winds LLC Ltd., the Middle Eastern businessman and the government official, and learn that:

Trade Winds is a shell company with no apparent actual business activities, organized in the British Virgin Islands, as was FELIX CONSULTANTS. The Middle Eastern businessman is listed as the owner of the company in the UK Companies House website; the company was never active and was dissolved in May 2018.

Of greater interest, the businessman - described as a “billionaire” in some accounts - is identified in several media reports as a prominent international arms dealer under investigation by the UN for illegal arms trafficking. He reputedly was involved in a recent scandal with the head of the Bukaran armed forces involving the purchase of defective Russian helicopters.

The head of the Bukaran armed forces is described in several on-line media sources as one of the most corrupt and powerful men on the continent. He allegedly is involved in illegal arms trading and is considered to be untouchable because of his wealth and relationship with the President.

Questions:

1. How would you follow up on the information provided by STERLING?
2. What other steps would be useful at this stage?

STEP SEVEN

You make informal inquiries with your international law enforcement contacts to begin to trace the STERLING payments to Trade Winds, in preparation for a later, formal request for international legal assistance.

Your sources advise you that most of the funds wired to the Trade Winds account were promptly transferred to an account in Mauritius in the name of MultiTech, LLC, and from there to an account in the name of TransOceanic Ltd. at a small private bank in Zug, Switzerland. At that point your informal sources of information dry up.

You help IDG prepare a formal request for Mutual Legal Assistance (an “MLA” Request) to the UK, Swiss and Mauritian authorities, asking them to provide evidence of the disbursement of funds from the Trade Winds, MultiTech and TransOceanic accounts. This may take some time to accomplish.

Questions:

1. What else might you do as you wait for the reply to the MLA Request?

STEP EIGHT



Kurtz

In the meantime you begin to prepare for an interview of Kurtz, who unexpectedly announces that he will leave IDG next month.

As you review his IDG emails, you note that Kurtz consistently opposed the extension of the STERLING contract.

You also see that on January 5, 2018, an IDG Procurement Specialist, with the approval of Howard Anderson, agreed to extend the STERLING contract and to reimburse the withheld

contract payments. At that time Kurtz was away on temporary assignment. The files indicate that Kurtz was notified only after the fact.

This was not what you expected to see.

As you ponder the significance of this, you summon Kurtz for an interview.

Questions:

1. What is the significance of the information you discovered regarding the extension of the Sterling contract?
3. Would you interview Kurtz at this point? If so, how would you organize the questions, and what topics would you cover? In what order?
4. What documents, if any, would you ask Kurtz to produce?
5. How would you respond in Kurtz refuse to appear, or refused to answer questions and produce documents?

STEP NINE

Kurtz appears early for his interview. He is cordial and cooperative. In summary, he provides the following information:

He admits interfering in the local procurement process, which is strictly forbidden by IDG rule, because the locals are all corrupt and he had to intervene to ensure that the works were done correctly.

He cancelled the STERLING contract because of the company's constant delays, incompetence and corrupt dealings with the locals. He thinks that Anderson reinstated it because he is weak and succumbed to pleadings from the company.

He has no ideas who owns FELIX and denies any efforts to rig contracts in its favor. FELIX performs as well or better than any other supervision firm, large or small, so he sees no problem with the company. He denies he owns the company, but admits that the listed owner is a and former co-worker at a previous job.

He denies involvement in any corrupt activities.

He built his house outside the capital with funds he has accumulated and inherited from his wealthy parents. He declines to provide further details on his source of funds or his background before he joined IDG because 'it is none of IDG's business.'

When pressed on this issue, he walks out of the interview.

Questions:

1. What other topics would you cover in the interview?
2. How would you respond to Kurtz's refusal to answer questions about his personal finances?

STEP TEN



Howard Anderson

Shortly after your interview of Kurtz, Howard Anderson invites you to his villa to celebrate Bukaran Independence Day.

You notice the house and is filled with tasteful pieces of art and sculpture from various parts of the world. Anderson says he is an avid collector. Some of the items are valuable, he says, and others are just interesting “knickknacks” he picked up here and there. They don’t seem to be “just” knickknacks.

Questions:

1. What could you ask Anderson to possibly advance your investigation?

STEP ELEVEN

Sometime later the UK, Swiss and Mauritian authorities file their responses to your MLAT requests to trace the \$750,000 payment by STERLING to its ultimate destination.

You learn that from 2012 to the present the TransOceanic account has disbursed funds to a Credit Suisse account in the name of InterTek Traders LLC, which in turn has wired more than 350,000 Euros to art dealers in Paris, Basel, Cairo and Nairobi.

You also learn that during the same time period InterTek wired more than 4 million Euros to accounts associated with illegal arms dealers in Russia and Serbia for the purchase of AK-47's, other weapons and ammunition. Further investigation reveals that InterTek sold the munitions through local middlemen to The Brigade and other similar groups in the region.

You are disappointed but not surprised.

Questions

1. What remains to be done to complete the investigation?

STEP TWELVE

Questions:

1. What companies and individuals would you charge for what offenses? Cite the evidence you would use for each element of the offenses.